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In re Application of
McMAHON *et al*
Application No.: 10/588,840
PCT No.: PCT/US05/04518
Int. Filing Date: 10 February 2005
Priority Date: 10 February 2004
Atty. Docket No.: 044108.001000
For: PLANT NUTRIENT REDUCTION
SYSTEM

DECISION

This is a decision on applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed in the U.S. Patent and Trademark Office (USPTO) on 25 January 2008, and applicants' "SUPPLEMENTAL RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed in the USPTO on 10 June 2008.

BACKGROUND

On 18 September 2007, applicants filed an initial petition requesting that the application be accepted without the signature of one of the joint inventors, Paul C. Porter on the grounds that he refuses to execute the application papers. The petition was accompanied by, *inter alia*, a declaration of the inventors executed by inventor McMahon, a "DECLARATION OF ADAM C. BRINK IN SUPPORT OF THE PETITION UNDER 37 C.F.R. 1.47(a)" and the requisite petition and late declaration fees.

On 26 October 2007, this Office mailed a decision dismissing the petition without prejudice.

On 25 January 2008, applicants filed the present renewed petition which was accompanied by, *inter alia*, a power of attorney executed by inventor Porter.

On 10 June 2008, prior to the mailing by this Office of a Notice of Defective Response giving applicants an additional 30 days to perfect the renewed petition, applicants filed the present supplemental renewed petition which was accompanied by, *inter alia*, a declaration of the inventors executed by inventor Porter.

On 15 July 2008, the United States Designated/Elected Office (DO/EO/US) mailed a filing receipt and a Notice of Acceptance (Form PCT/DO/EO/903) indicating a date under 35 U.S.C. 371 of 18 September 2007.

DISCUSSION

A proper response to the 26 October 2007 decision would have been submission of the previously unsatisfied requirements under 37 CFR 1.47(a) or, in the alternative, a declaration executed by inventor Porter. A review of the response reveals that applicant has submitted the latter, and therefore the petition is now properly dismissed as moot.

A review of the application file, and specifically the 25 January 2008 submission reveals that the previously identified discrepancy in the name of the first inventor is the result of a typographical error in the original international application papers.

Therefore, the combination of the declarations filed 18 September 2007 and 10 June 2008, satisfy the requirements of 37 CFR 1.494 and the application now satisfies the requirements for entry into the national stage under 35 U.S.C. 371.

A review of the application file also reveals that the filing receipt and Notice of Acceptance (Form PCT/DO/EO/903) mailed 15 July 2008, were issued in error.

CONCLUSION

For the reasons above, the renewed petition is **DISMISSED** as moot.

Also for the reasons above, the filing receipt and Notice of Acceptance (Form PCT/DO/EO/903) mailed 15 July 2008, are hereby **VACATED**.

The application has an international filing date of 10 February 2005, under 35 U.S.C. 363 and a date of **10 June 2008**, under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision, including the mailing of a corrected filing receipt and Form PCT/DO/EO/903.



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